

**Santa Barbara News Press - July 1, 2009**

## **Hollywood prosecutor: 'It's time. Convict him' : During closing argument, defense attorney says reasonable doubt remains**

**ANGEL PACHECO, NEWS-PRESS STAFF WRITER**

July 1, 2009 7:29 AM

When a baseball manager sends his pitcher to bean a batter, who is to blame if the batter gets hurt?

It's a question that Joshua Lynn, chief trial deputy in the Santa Barbara County District Attorney's Office, put to the jury during a closing argument Tuesday that he hopes will help lead to a guilty verdict against Jesse James Hollywood, who is accused of orchestrating the 2000 murder of a 15-year-old boy kidnapped from the San Fernando Valley.

"It's the coach for sending him in and it's the pitcher for doing it," Mr. Lynn said, answering his own question.

But it wasn't a baseball that was flung at Nicholas Markowitz as he stood bound by duct tape in the foothills of Santa Barbara during the early hours of Aug. 9, 2000. Ryan Hoyt, an associate of Mr. Hollywood now on death row, fired nine rounds into the teenager -- half brother of Ben Markowitz, the man who owed Mr. Hollywood a drug debt that witnesses said was between \$1,200 and \$2,500.

"His method was to have other people do his dirty work for him," Mr. Lynn said of the 29-year-old former marijuana dealer. At 20 years old, Mr. Hollywood already owned a home, had dope, girls, guns, cars, "and he was into all of it."

On Aug. 6, 2000, not long after Ben Markowitz shattered the windows to Mr. Hollywood's home, Nicholas was put into a van by Mr. Hollywood and two of his friends. When he took the stand last week, Mr. Hollywood said it was his associate William Skidmore who "escorted" Nicholas into the van.

In contrast to this "kinder, gentler kidnapping," Mr. Lynn played a 9-1-1 call -- made in the moments following the abduction by a female caller who reported seeing some teens "beating the crap out of this kid." The woman reported the battle as being four on one, and said the victim was pushed into a van before being beaten even further.

And this is just one of the witness statements that didn't fit with the story Mr. Hollywood delivered when lead defense attorney James Blatt called him to the stand last week.

Mr. Hollywood said he had wanted to confront Ben Markowitz, but Mr. Lynn filed this as one of the defendant's lies, as he never attempted to do so.

Mr. Lynn argued the kidnap of Nicholas was completed the moment the van door shut behind him, and referring to the reported interaction between Mr. Hollywood and the victim, the intent of ransom was clear as well. On the drive to Santa Barbara for Fiesta celebrations, Mr. Hollywood told the teenager his brother was going to pay, Mr. Lynn said, recounting testimony. In addition, the man took Nicholas' wallet and address book.

Once on the South Coast, the first stop was the home of Richard Hoeflinger, where Nicholas was bound in a back room, according to multiple witnesses. Mr. Hollywood reported telling Mr. Skidmore, who was near the victim holding a role of duct tape, to cut the boy loose.

Despite Mr. Hollywood saying that Nicholas was free to go at that point, Mr. Lynn pointed out to jurors that the teenager was never told this and he was additionally in the same home as the "thugs" who threw him in a car, including "the king of thugs," Mr. Hollywood.

According to Mr. Lynn, the "fear in the situation was never removed," and the situation with Ben Markowitz had not yet been resolved.

While Mr. Hollywood that same day returned to the San Fernando Valley, he testified he hadn't seen any danger at the Hoeflinger house. Mr. Lynn contrasted the supposedly safe home with testimony from multiple witnesses who had not described the scene as favorable. One witness even reported still experiencing "night terrors."

Mr. Hollywood testified he returned to the San Fernando Valley that evening because he felt sidetracked with other priorities, but this was a detail Mr. Lynn told jurors didn't make sense considering the man had just made the trip for Fiesta festivities.

On Aug. 7, 2000, Mr. Hollywood returned to Santa Barbara to collect \$500 from the man Nicholas was staying with, Jesse Ruge, according to Mr. Hollywood's prior testimony. However, Mr. Lynn argued this had nothing to do with money, but Mr. Hollywood was instead continuing his control over Nicholas.

Of Mr. Hollywood offering to take Nicholas home while at the Ruge house, Mr. Lynn called the alleged conversation "a pure fantasy sequence" that was never witnessed.

To convict Mr. Hollywood of first-degree murder, the jury must find that the murder and kidnapping were part of the same transaction. The prosecutor argued Mr. Hollywood kept the kidnap in motion through visits, calls to Mr. Ruge and ultimately sending Mr. Hoyt to kill Nicholas. Mr. Hollywood acted as an aider and abettor to the gunman by providing the murder weapon, a TEC-9 assault pistol; arranging for the vehicle used to take Nicholas to his grave; giving Mr. Hoyt directions to the victim; and providing Mr. Hoyt with an incentive: money.

While Mr. Hoyt drove to Santa Barbara on Aug. 8, 2000, ultimately killing Nicholas at a hiking spot known as Lizard's Mouth early the next morning, Mr. Hollywood had said on the stand that he had sent him to return Nicholas home.

"What is Hoyt's independent motive?" Mr. Lynn asked. "I have no clue ... Why would he go against a direct order?"

Mr. Lynn additionally questioned why other than a phone call with Mr. Hoyt, Mr. Hollywood was unable to recall anything that occurred Aug. 9, 2000. On that day, Casey Sheehan, another of Mr. Hollywood's friends, testified he saw Mr. Hoyt with all of Mr. Hollywood's guns minus the TEC-9, which was buried with Nicholas.

Mr. Lynn additionally brought up Mr. Sheehan's testimony that he went shopping with Mr. Hoyt that day. The gunman had been in debt to Mr. Hollywood and was known to be unemployed and penniless. It was while they were shopping that Mr. Hoyt reportedly said the act in Santa Barbara cleared his debt.

"There's no other explanation for Hoyt getting that money," Mr. Lynn told jurors.

According to Mr. Hollywood's testimony, Mr. Hoyt did not report that he had killed Nicholas until Aug. 10, 2000. An argument ensued at a party being thrown for Mr. Hoyt's birthday by Mr. Sheehan and Mr. Hollywood reportedly became enraged. However, Mr. Lynn argued this was not because Mr. Hoyt had disobeyed orders, but because the gunman had gone about it the wrong way by enlisting 17-year-old Graham Pressley -- convicted of second-degree murder in connection with the killing -- to dig a shallow grave at Lizard's Mouth. While on the run from law enforcement, Mr. Hollywood's childhood friend Chas Saulsbury reported hearing Mr. Hollywood questioning "who the f--- is this kid," referring to Mr. Pressley, Mr. Lynn said.

Of going on the lam, Mr. Lynn argued Mr. Hollywood had been planning to flee, as he had emptied his bank account and leased a new car.

Toward the end of his PowerPoint presentation, Mr. Lynn showed a portrait of the victim that appeared as if it could have been a school yearbook photo. The image was soon replaced by a series of autopsy images that displayed the teen's decomposing body. But the image that brought members of the Markowitz family in the courtroom to tears depicted a ring on one of Nicholas' lifeless hands -- the same ring Mr. Lynn said Mr. Hollywood could not recall ever seeing.

The trial has been nearly nine years in the making, and Mr. Lynn concluded, "It's time. Convict him."

With plenty of time left on the clock in the day's afternoon session, Alex Kessel, Mr. Hollywood's co-defense attorney, launched into his own argument, urging jurors to "take this as one of the most important decisions you make in life."

Mr. Kessel reminded jurors that the burden of proof is always the prosecution's and brought up something he said had been lacking from Mr. Lynn's argument: proof beyond a reasonable doubt.

Among the claims Mr. Kessel questioned was that his client provided Mr. Hoyt with the TEC-9. The best Mr. Lynn could do was infer that it had been supplied by pointing out that Mr. Hoyt returned all of Mr. Hollywood's guns on Aug. 9, 2000, other than the TEC-9. While Mr. Sheehan testified he had seen the guns that day, Mr. Kessel said this could not have been the case, as one of the weapons the witness claimed to have seen was being stored elsewhere.

Mr. Kessel argued that witnesses had been entrenched in the case by following media reports and seeing the film "Alpha Dog," which fictionalized Nicholas' murder. Witnesses in the case, Mr.

Kessel argued, had their own agendas, and referencing the 1995 film "Get Shorty," he dubbed the current situation "Get Hollywood."

"This case has been manufactured," Mr. Kessel said.

Of Mr. Lynn's comment that witnesses never went to police out of fear, Mr. Kessel said everyone ended up going to authorities and lying to save themselves. Prosecutors contend Mr. Hollywood ordered the murder over a \$1,200 debt, but this didn't sit well with Mr. Kessel either, as his client had \$25,000 in the bank.

Mr. Kessel additionally faulted the prosecutor for never discussing phone logs compiled by the Santa Barbara County Sheriff's Department. Ben Markowitz in his testimony said he phoned Mr. Hollywood after learning about Nicholas' disappearance, but the call was never returned. However, Mr. Kessel was unable to locate the records.

The attorney will continue his argument at 9 a.m. today when the trial continues, and Mr. Blatt additionally plans to continue the defense's argument. But since the prosecution carries the burden of proof, Mr. Lynn will have the chance to get in the last word with a rebuttal.

From there, the case will be in the hands of jurors.

e-mail: [apacheco@newspress.com](mailto:apacheco@newspress.com)